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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,468	10/28/2003	Jeffrey Henning	JEV/KAR:0041.0199	6930
152	7590	06/02/2005	EXAMINER	
CHERNOFF, VILHAUER, MCCLUNG & STENZEL 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204-3157			FOX, CHARLES A	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,468

Applicant(s)

HENNING, JEFFREY

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-23-05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over House in view of Reeves. In regards to claim 1 House US 5,336,039 discloses a fork positioner comprising:

a first fork engaging member (30) slidably supported by a transversely extending actuator (48);

a second fork engaging member (32) slidably supported by a transversely extending second actuator (48);

said actuators being transversely offset from one another (see figure 5). House does not teach actuation of the first actuator as moving the second fork engaging member. Reeves US 4,360,309 teaches a fork position device comprising:

a first fork engaging member (30) slidably supported by a frame surrounding a first actuator (44) and supporting a first fork member;

a second fork engaging member (34) slidably supported by a frame surrounding a second actuator (42) and supporting a second fork member;

wherein actuation of the first actuator causes said second fork member to move and moving said second actuator causes said first fork member to move. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by House with the cylinder arrangement as taught by Reeves in order to allow the device to withstand higher load stresses while maintaining a compact design.

Regarding claim 2 House further discloses that the power actuators are hydraulic cylinders.

In regards to claim 6 House also discloses that the first and second actuators are synchronized to symmetrically move the fork engaging members relative to a central axis between the fork engaging members.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over House '039 and Reeves as applied to claim 6 above, and further in view of House '190. House '039 and Reeves teach the limitations of claim 6 as above, they do not teach the axis which said fork engaging members move being shiftable. House US 4,902,190 teaches a forklift carriage comprising:

an actuator (42) for shifting fork engaging members (50,52) relative to an axis along member (34b);

a side shift cylinder (17) that shifts the axis along member (34b) in a transverse direction.. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by House '039 and Reeves with a side shift ability as taught by House '190 in order to allow the device to move the forks to one side at the

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same time such that the device can access a load that is not exactly lined up with the forks without having the operator manually reposition the forks.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over House '039 and Reeves as applied to claim 1 above, and further in view of Barda et al. House '039 and Reeves teaches the limitations of claim 1 as above, they do not teach the fork engaging member as having downwardly depending forks. Barda et al. US 3,754,673 teaches a device for shifting the transverse position of fork on a forklift, said device comprising :

a pair of fork supporting members with a base (92) from which depends a pair of legs (72,74), said legs bracketing a fork (66);

wherein each fork supporting member has a fork-engaging position for preventing the fork from being removed from the device and a fork-disengaging position for allowing the fork (66) to be lifted up and off of said supporting member;

wherein each fork supporting member has a fork-engaging member (94,96) that is selectively movable on the fork positioner from a fork-engaging position to a fork disengaging position.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by House '039 and Reeves with a fork support as taught by Barda et al. in order to allow the forks to be removed from the device without needing any tools or the removal of any parts of the device.

Response to Amendment

The amendments to the claims and specification filed on February 23, 2005 have been entered into the record. The 35 U.S.C. 112 rejections of claim 7 have been withdrawn as a result of amendments thereto.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is: Weinert 1981, Johannson 1983, Addelman 1988, Laursen 1990, Chase et al. 1992, Yoo 1996 and Ruf2001.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAF
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5-14-05


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